IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 7743 OF 2005
IN
CRIMINAL APPEAL NO. 1105 OF 2005

Pappusing @ Premkumar Ramlakhan .. Applicant

Vs.

The State of Maharashtra .. Respondent

Ms. Anjali Patil for applicant.
Ms. P.H. Kantharia, APP for State.

CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.

Date : January 25, 2006.

P.C.:

1. Heard Ms. Patil, the learned counsel for the applicant who has been convicted and sentenced for the offences punishable under Sections 302 and 324 of IPC by the learned Addl. Sessions Judge, Gr. Bombay in Sessions Case No. 303 of 2004. This is an application for being released on bail during the pendency of the applicant's Criminal Appeal No.1105 of 2005 which has been admitted by this court on 5/12/2005.

2. We have considered the arguments advanced by Ms. Patil the learned counsel for the applicant and perused the reasoning set out by the learned Addl. Sessions Judge, Gr. Bombay in support of the order of conviction and sentence. In addition to the injured eye witness-complainant P.W.1 Arunkumar, the brother of the deceased Ajaykumar, the court below has considered the testimony of the independent witness P.W.7 Mr. Rajesh Chaurasia, who had a pan shop near the spot of incident. The evidence of the Medical Officer P.W.8 went to show that the deceased had sustained incised wound on abdomen in the size of 7.5 c.m. x 3 c.m. (both angles were sharp cut) and the injury was caused by assault of sharp weapon-knife. The doctor also stated that there were other incised wounds on the left arm posteriorly as well as anteriorly and left forearm below elbow joint in addition to the injury on abdomen of the deceased. This evidence prima facie goes to show that more than one assault was attempted on the deceased. Having considered the reasoning given by the court below on the basis of the evidence relied upon, we do not find this is to be a fit case to suspend the order of sentence under Section 389 of Cr.P.C. and release the applicant on bail during the pendency of his appeal.

3. Hence, the application is hereby rejected. However, the applicant’s appeal deserves to be heard expeditiously and the applicant is, therefore, at liberty to apply for early hearing as soon as the paper book is ready.

(Smt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**